

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

1	IN THE MATTER OF	)	
2	KERR STEAMSHIP CO., INC.,	)	
3	Appellant,	)	PCHB No. 477
4	vs.	)	FINAL FINDINGS OF FACT,
5	PUGET SOUND AIR POLLUTION	)	CONCLUSIONS OF LAW
6	CONTROL AGENCY,	)	AND ORDER
	Respondent.	)	

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8 THIS MATTER being an appeal of a \$250.00 civil penalty for an  
9 alleged smoke emission violation of Regulation I; having come on  
10 regularly for hearing before the Pollution Control Hearings Board on  
11 the 15th day of February, 1974, at Seattle, Washington; and appellant  
12 Kerr Steamship Co., Inc. appearing through its operations assistant,  
13 David R. Enroth and respondent Puget Sound Air Pollution Control Agency  
14 appearing through its attorney, Keith D. McGoffin; and Board members  
15 present at the hearing being Walt Woodward (presiding) and Mary Ellen  
16 McCaffree; and the Board having considered the sworn testimony, exhibits,  
17 records and files herein and arguments of the parties and having entered  
18 on the 20th day of March, 1974, its proposed Findings of Fact, Conclusions

1 of Law and Order, and the Board having served said proposed Findings,  
2 Conclusions and Order upon all parties herein by certified mail, return  
3 receipt requested and twenty days having elapsed from said service; and

4 The Board having received no exceptions to said proposed Findings,  
5 Conclusions and Order; and the Board being fully advised in the premises;  
6 now therefore,

7 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed  
8 Findings of Fact, Conclusions of Law and Order, dated the 20th day of  
9 March, 1974, and incorporated by this reference herein and attached  
10 hereto as Exhibit A, are adopted and hereby entered as the Board's  
11 Final Findings of Fact, Conclusions of Law and Order herein.

12 DONE at Lacey, Washington, this 12th day of April, 1974.

3 POLLUTION CONTROL HEARINGS BOARD

14 Walt Woodward  
15 WALT WOODWARD, Chairman  
16

17 Mary Ellen McCaffree  
18 MARY ELLEN McCAFFREE, Member  
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26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW  
AND ORDER

Certification of Mailing

I, LaRene C. Barlin, certify that I mailed copies of the foregoing document on the 12<sup>th</sup> day of April, 1974, to each of the following parties:

Mr. David R. Enroth, Operations Assistant  
Kerr Steamship Company, Inc.  
3801 Seattle-First National Bank Bldg.  
Seattle, Washington 98154

Mr. Keith D. McGoffin  
Burkey, Marsico, Rovai & McGoffin  
818 South Yakima Avenue  
Tacoma, Washington 98405

Puget Sound Air Pollution Control Agency  
410 West Harrison Street  
Seattle, Washington 98119

the foregoing being the last known post office addresses of the above-named parties. I further certify that proper postage had been affixed to the envelopes deposited in the U.S. mail.

  
LARENE C. BARLIN  
POLLUTION CONTROL HEARINGS BOARD

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

1 IN THE MATTER OF )  
2 KERR STEAMSHIP CO., INC., )  
3 Appellant, )  
4 vs. )  
5 PUGET SOUND AIR POLLUTION )  
6 CONTROL AGENCY, )  
7 Respondent. )

PCHB No. 477

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

8 This matter, the appeal of a \$250.00 civil penalty for an alleged  
9 smoke emission violation of Regulation I, came before two members of  
10 the Pollution Control Hearings Board. (Walt Woodward, presiding  
11 officer, and Mary Ellen McCaffree) at a formal hearing in the  
12 Washington Commerce Building, Seattle, Washington, at 11:00 a.m. on  
13 February 15, 1974.

14 Appellant was represented by David R. Enroth, operations assistant,  
15 Kerr Steamship Co., Inc.; respondent appeared through its counsel  
16 Keith D. McGoffin. Ernest Yamaguchi, Seattle court reporter, recorded  
17 the proceedings.

18 Witnesses were sworn and testified. Exhibits were admitted.

EXHIBIT A

1 Arguments were made.

2 From testimony heard, exhibits examined and arguments considered,  
3 the Pollution Control Hearings Board makes these:

4 FINDINGS OF FACT

5 I.

6 At about 2:23 p.m. on October 23, 1973 from the stack of the  
7 vessel MV WINDFORD docked at Pier "D" in Everett, Washington, there  
8 was emitted for at least sixteen (16) consecutive minutes, solid black  
9 smoke in shade No. 3 on the Ringelmann Chart.

10 II.

11 Section 9.03 of respondent's Regulation I makes it unlawful  
12 to cause or allow the emission of an air contaminant for more than  
13 three minutes in any one hour of a shade darker than No. 2 on the  
14 Ringelmann Chart.

15 III.

16 An inspector on respondent's staff, received a complaint and  
17 after observing the above-described emission, issued Notice of  
18 Violation No. 8085 to appellant. Subsequently and in connection  
19 therewith, appellant was served with a Notice of Civil Penalty  
20 No. 1237 in the amount of \$250.00, being the maximum amount which  
21 respondent may invoke for a violation of its Regulation I. That  
22 penalty is the subject of this appeal.

23 IV.

24 The Kerr Steamship Co., Inc. is the domestic agent for various  
25 foreign flag carriers including the subject vessel. The subject  
26 vessel is owned by the Windsor Company, Ltd., Monrovia, Liberia.

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW

28 AND ORDER

ORDER

The appeal is denied, but the appellant is directed to pay respondent \$125.00, the balance of \$125.00 being suspended on condition of no more similar violations for a period of six months from the date this Order becomes final.

DATED this 20th day of March, 1974.

POLLUTION CONTROL HEARINGS BOARD

Walt Woodward  
WALT WOODWARD, Chairman

Mary Ellen McCaffree  
MARY ELLEN McCAFFREE, Member

FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER